

ORDINANCE NO. 04- 266

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING THE LOS ALTOS MUNICIPAL CODE BY REPEALING SECTIONS
9.16.020, 9.16.030, 9.16.060, 9.16.070 AND 9.16.080 OF TITLE 9 AND REPLACING THEM
WITH NEW SECTIONS PERTAINING TO THE ISSUANCE OF NEWSRACK
PERMITS**

WHEREAS, the City Council finds that there is a substantial governmental interest in promoting the public health, safety, welfare and convenience by ensuring that persons may reasonably use the public streets, sidewalks, rights-of-way, and other public property without interference with such use; and

WHEREAS, the City Council finds that newsracks placed and maintained on the streets, sidewalks, or other public rights-of-way, absent some reasonable regulation, may unreasonably interfere with the use of such streets, sidewalks, and public rights-of-way, and may present hazards to persons or property; and

WHEREAS, the City Council finds that the streets, sidewalks and public rights-of-way are historically associated with the sale and distribution of newspapers and other publications, and access to and use of these areas for such purposes is not to be denied except where such use unreasonably interferes with the use of these areas by pedestrians or traffic, or where such use presents a hazard to persons or property; and

WHEREAS, the City Council finds that reasonable accommodation of these competing interests can be achieved by Chapter 9.16, which regulates the design, placement, and maintenance of newsracks; and

WHEREAS, the City Council finds that the public health, safety, welfare and convenience require that: interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or street be minimized and repaired; the good appearance of the public streets and grounds be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from properties adjoining the public rights-of-way be protected; and

WHEREAS, the City Council finds that the regulation of the sale or free distribution of newspapers and other publications dispensed in vending machines as set forth in this Chapter provides the least intrusive and burdensome means for ensuring the purposes stated in this section are carried out while still providing ample opportunities for the distribution of news and opinion to the citizens of the City of Los Altos; and

WHEREAS, the City Council finds that this Chapter does not and is not intended to regulate the placement of newsracks on private property or property under the jurisdiction of any public agency other than the City of Los Altos.

The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Part D of Section 9.16.020, Part A of Section 9.16.030, Part A of Section 9.16.060, Part C and F of Section 9.16.070 and Section 9.16.080 of Title 9 of the Los Altos Municipal Code are hereby repealed in their entirety and replaced with a new Part D of Section 9.16.020, Part A of Section 9.16.030, Part A of Section 9.16.060, Part C and F of Section 9.16.070 and Part A and B of Section 9.16.080 to read as follows:

“9.16.020 Newsrack permit required

D. Every newsrack permit application shall contain the name, address, and telephone number of those responsible for installation, use, and maintenance of the newsracks, and shall describe, in detail, and provide a drawing showing the location(s) proposed for installation. Any newsrack permit shall be issued within ten (10) working days if the type of newsrack and location(s) proposed meet the standards set forth in this chapter.

9.16.030 Design.

A. Each newsrack shall be the city standard as established by the director of public works. Where there are three or more single newsracks in any one location, modular style newsracks shall be required. Each compartment in a modular newsrack shall be filled before any additional newsracks can be added to a location. The city requires powder-coated black polyurethane paint for the newsracks and the pedestals of all newsracks.

9.16.060 Maintenance

A. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Including, without limitation, the newsrack shall be free of dirt and grease; chipped, faded, peeling or cracked paint; dents and rust corrosion and shall have no broken or cracked plastic, glass or structural parts. Adhesive labels, other than city issued identification/approval labels, unrelated to publications in the newsracks shall not be displayed on newsracks.

9.16.070 Abatement of violation

C. Any person notified under this section may submit a written request for a hearing before the director of public works or their designee, which hearing shall be held not less than ten (10) business days after the request was made. The hearing shall be informal, but oral and written evidence may be given by both sides. Any action by the city with respect to the alleged violation shall be stayed pending the Director of public work’s decision following the hearing, which decision shall be rendered no later than ten (10) business days after the hearing. The director of public works may give oral notice of the decision at the close of the hearing, but shall also give written notice of all decisions.

F. Removed or impounded newsracks shall be retained and may be recovered by their owner within thirty (30) days of their removal. Newsracks removed or impounded by the city shall be retained at the city’s Municipal Services Center. Newsracks, which are not claimed within thirty (30) days, shall be deemed permanently abandoned and shall be disposed of.

9.16.080 Amortization Requirements

A. Every pre-existing newsrack within the location limits set forth in Section 9.16.050, which does not comply with the provisions of this chapter, shall be removed or otherwise brought into conformance within three months of the effective date of this chapter.

B. Every pre-existing, permitted newsrack, which is not in compliance with the design standards set forth in Part A of Section 9.16.030, shall be removed or otherwise brought into conformance within five (5) years of the effective date of this ordinance. Any and all new newsracks, or replacement newsracks, shall be subject to the provisions of this chapter.”

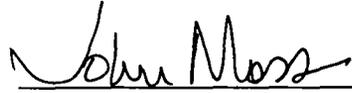
SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

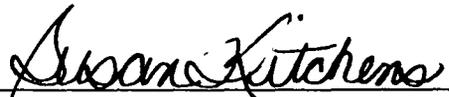
The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on July 27, 2004 and was thereafter, at a regular meeting held on August 24, 2004 passed and adopted by the following vote:

Ayes: COLE, PACKARD, CASAS, LEAR, MOSS
Noes: NONE
Absent: NONE



JOHN MOSS, MAYOR

Attest:



SUSAN KITCHENS, CITY CLERK

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